

**MELENCIO PAGKATIPUNAN, DOMINGO CRUZ, ET. AL., PETITIONERS,
VS. MUNICIPAL JUDGE ATILANO C. BAUTISTA, LEONOR DE LOS
ANGELES, ET. AL., RESPONDENTS.**

G.R. No. L-24881. October 30, 1981

Ponente: DE CASTRO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/ad4a231f09dc/>

DE CASTRO, J.:

In an ejectment case filed on July 27, 1964 in the Municipal Court of San Mateo, Rizal, docketed as Civil Case No. 47, the defendants therein, after filing their answer dated September 16, 1964, filed on September 19, 1964, a motion for trial with assessors under Rule 32 of the Rules of Court (p. 15, Record). The Motion was denied in an order dated October 12, 1964 (pp. 16 & 17, Record), and a motion for reconsideration was also denied on November 9, 1964 (Exh. "G", p. 73, Record).

On November 27, 1964, the same defendant filed with the Court of First Instance of Rizal on November 27, 1964, a petition, with the Municipal Judge made as one of the respondents, with prayer for the issuance of a preliminary injunction to restrain said judge from holding trials on the merits without the aid of assessors in the aforesaid Civil Case No. 47, thereby submitting for review the order of the respondent municipal judge denying the motion for trial with the aid of assessors.

The case was submitted for decision on the pleadings, after a motion to dismiss filed with the answer of the respondents was denied by the court, in its order dated March 2, 1965 (pp. 57-59, Record). Reiterating its reasons contained in said order of March 2, 1965, the court a quo rendered its decision on May 18, 1965, the dispositive portion of which reads:

“WHEREFORE, judgment is hereby rendered:

1. granting the petition;
2. declaring as null and void the orders dated October 12, 1964 and November 9, 1964 of the respondent municipal judge;
3. directing the said respondent municipal judge to appoint assessors in accordance with the provisions of Sections 57 to 62, inclusive, of Act No. 190, and enjoining said respondent municipal judge or his successor from proceeding with the trial of Civil Case No. 47 without the assistance of assessors." (p. 84, Record)

Appealing the decision direct to this Court, appellants filed their brief on November 2, 1965, and the case was submitted for decision on January 20, 1966, without appellee's brief.

The only issue raised in this appeal is whether trial with the aid of assessors as provided under Rule 32 of the Revised Rules of Court is applicable in cases filed with and tried before the Municipal Court. In the resolution of this issue the question also arises whether Sections 57-62 of Act 190 otherwise known as the Code of Civil Procedure, have already been abrogated by the Rules of Court of 1940 and the present Revised Rules of Court.

For it is mainly on the basis of these provisions that the court a quo sustained the position of the appellees, citing the case of *Primicias vs. Ocampo, et al.*, G.R. No. L-6120, June 30, 1953, 49 Off. Gaz. 2230.

The ratio decidendi of the appealed judgment is that the aforecited sections 57-62 of Act 190 afford a right which is substantive in character, and is, therefore, beyond the rule-making power of the Supreme Court to repeal or modify. To the same effect is the ruling in *Colegio de San Jose vs. Sison*, 56 Phil. 344, where this Court made the following pronouncements:

"An examination of the provisions of Section 58 will show that the right thus granted to the parties to be judged by assessors is absolute, and that the duty imposed upon the justice of the peace is likewise mandatory. Once the petition in writing has been filed by any of the parties, it is the duty of the justice of the peace to grant it, and to proceed to the selection of the assessors in the manner pre-scribed. The petitioner argues that in denying the private respondents' petition for assessors, the justice of the peace did not err inasmuch as he had not been supplied by the municipal council of Liang with the list mentioned in section 57. We are of the opinion that the reason given by the justice of the peace was neither good nor tenable, and did not exempt him from his imperative duty to grant the petition and to provide for the selection of the two assessors to which the aforesaid respondents were entitled. Under the circum-stances, it was his duty to require the municipal council of Liang to supply him with the list required by the law, which, according to the complaint filed in the present proceeding, was at once prepared by said municipal council and furnished to the justice of the peace. The respondents could not be deprived of a substantial right granted them by law. According to section 63 of the Code of Civil Procedure, the assessors thus appointed shall, after qualifying, sit at the hearings and advise the justice of the peace in the determination of all questions of facts as well as of law, and in case of their dissent as to the merits of the action, they are required by law to certify in writing their dissent, giving the reasons therefor, and such dissent shall be taken into account by the Court of First Instance in case of appeal. All these provisions necessarily lead to the conclusion that the intervention of the assessors is not an empty formality, which may be disregarded without violating either the letter or the spirit of the law. It is another security given by the law to the litigants, and as such, it is a substantial right of which they cannot be deprived without violating all the proceedings. Were we to agree that for one reason or another the trial by assessors may be done away with, the same line of reasoning would force us to admit that the parties litigant may be deprived of their right to be represented by counsel, to appear and be present at all the hearings, and so on, to the extent of omitting the trial in a civil case, and thus set at naught the essential rights granted by the law to the parties, with the consequent nullity of all the proceedings." (Underscoring supplied)

With the ruling in *Colegio de San Jose vs. Sison*, explicitly applying to a justice of the peace court, there should be no doubt as to the right of trial with the aid of assessors in municipal courts. Hence, to argue, as appellants do, that the ruling in *Primicias vs. Ocampo* is not in point because it involves trial with assessors in the City of Manila, does not advance their case.

Neither will the contention of appellants that Rule 32 which speaks of rights of parties to have assessors applies only to the Court of First Instance, not to Municipal Courts, fortify appellant's position, simply because Rule 32 is not one of those expressly made applicable by Section 19, Rule 5, Rules of Court to inferior courts. On good and solid authority, We adopt the proposition that the enumeration in the aforecited section 19 of Rule 5, is not exclusive. Thus, to quote Chief Justice Moran:

"In other words, the enumeration in the above provision of the several rules applicable in inferior courts is not all inclusive and exclusive, otherwise justices of the peace may disregard the rules on civil actions, splitting causes of action (Rule 2), parties to civil actions (Rule 3), etc. Other rules like Rule 25 on Interrogatories to Parties, Rule 27 on Production or Inspection of documents or things, Rule 28 on Physical and Mental Examination of Persons, and the appendix of forms are declared applicable in inferior courts." (I Moran, Comments on the Rules of Court, 1963 edition, p. 211) (p. 37, Record).

Flowing from the substantive character of the right to trial with assessors, as held expressly in at least three cases (Primicias vs. Ocampo, supra, Colegio de San Jose vs. Sison, supra; Barberi vs. Concepcion, 40 Phil. 320), is the mandatory duty of the municipal court to appoint assessors when properly and seasonably requested. The alleged fact that no list of assessors has been previously prepared, nor appropriation for their compensation made, is no impediment to granting the request; otherwise, a substantial right could easily be negated, which cannot be countenanced, specially in the light of the specific ruling that all proceedings taken by the inferior courts after denial of the right of any of the parties to a trial with the aid of assessors, are null and void (Colegio de San Jose vs. Sison, supra).

WHEREFORE, the decision appealed from is affirmed, without special pronouncement as to costs.

SO ORDERED.

Makasiar, Fernandez, Guerrero, and Melencio-Herrera, JJ., concur.

Teehankee, J., (Chairman), no part.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.